



Procedures for Public Interest Disclosures

April 2021

TABLE OF CONTENTS

1.	Information About This Document	3
2.	Purpose	3
3.	Definitions	3
4.	Scope	5
5.	Responsibilities	6
6.	Procedures	7
	6.1 Process For Making And Receiving A Disclosure	7
	6.2 Assessment And Notification Process	9
	6.2 Investigations	10
	6.3 Welfare Support.....	11
	6.4 Confidentiality	11
	6.5 Protection from Detrimental Action and reprisal.....	12
	6.6 Reporting – Collection and PUBLISHING of statistics	13
	6.7 Education and Training	13
7.	Offences	13
8.	Related Documents	14
9.	Related Legislation	14
10.	Review of Procedure	14

1. INFORMATION ABOUT THIS DOCUMENT

These procedures have been published by Moira Shire Council in compliance with section 58 of the *Public Interest Disclosures Act 2012* and the Guidelines published by the Independent Broad-based Anti-corruption Commission (IBAC) as at January 2020.

Requests for further information about Council's handling of the disclosures or complaints may be obtained from Council's Public Interest Disclosure Coordinator, Amanda Chadwick on 03 5871 9298 or via email at achadwick@moira.vic.gov.au.

This document was approved by the Chief Executive Officer, via the Corporate Management Team on 27 April 2021.

2. PURPOSE

These procedures bring into operation the requirements for Council under the *Public Interest Disclosures Act 2012* (referred to as 'the Act' in this document), and should be read in conjunction with Council's Public Interest Disclosure Policy, and the Independent Broad-based Anti-corruption Commission's (IBAC's) [Guidelines for Handling Public Interest Disclosures](#) and [Guidelines for Public Interest Disclosure Welfare Management](#). The Act was formally known as the *Protected Disclosures Act 2012*.

Council encourages the reporting of any improper conduct – including the intention to engage in improper conduct, and will support any person who discloses such conduct by its councillors, employees, contractor, volunteers and agents.

Council will:

- Take all reasonable steps to protect the identity of disclosers, the content of disclosures, and provide protection from reprisal for those who come forward to disclose such conduct;
- Ensure that disclosures are properly assessed and, where necessary, investigated;
- Afford natural justice to the person or body who is the subject of the disclosure.

3. DEFINITIONS

Act	For the purposes of this procedure, 'the Act', means <i>Public Interest Disclosures Act 2012</i> .
Assessable disclosure	Is defined in section 3 of the Act as a disclosure either made directly to the IBAC or if received by Council and which is required to be notified to the IBAC for assessment.
Corrupt conduct	Is defined in section 4 of the <i>Independent Broad-based Anti-corruption Commission Act 2011</i> and includes conduct: <ul style="list-style-type: none">• of any person that adversely affects the honest performance by a public officer of a public body of their functions; or• of a public officer or public body that constitutes or involves the dishonest performance of their functions; or• of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or

	<ul style="list-style-type: none"> of a public officer or public body that involves the misuse of information or material acquired in the course of the performance of their functions, or that could constitute a conspiracy of an attempt to engage in any conduct referred to above. <p>That would, if the facts were found proved beyond a reasonable doubt, constitute a relevant offence.</p>
Council	Moira Shire Council.
Detrimental action	Is defined in section 3 of the Act and includes: <ul style="list-style-type: none"> Action causing injury, loss or damage; Intimidation or harassment; Discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action.
Discloser	Person who makes a disclosure.
External disclosures	Public interest disclosure made to a person or body who is not a public body to whom a Public Interest Disclosure can be made under Division 2, Part 2 of the Act.
Improper conduct	Means corrupt conduct and/or conduct specified in section 4(2) of the Act that would constitute: <ul style="list-style-type: none"> a criminal offence serious professional misconduct dishonest performance of public functions intentional or reckless breach of public trust intentional or reckless misuse of information substantial mismanagement of public resources substantial risk to health or safety of a person or to the environment; or <p>The conduct of any person that:</p> <ul style="list-style-type: none"> adversely affects the honest performance by a public officer or a public body of their functions is intended to adversely affect the effective performance by a public officer or public body of their functions for the benefit of the other person could constitute a conspiracy or attempt to engage in any of the conduct referred to above.
Investigating entity	As specified in section 3 of the Act, means one of the bodies authorised to investigate disclosures including the IBAC, Victoria Police, Victorian Ombudsman, Victorian Inspectorate, Judicial Commission (and if the Judicial Commission has appointed an investigating panel to investigate a complaint that is, or includes, a public interest complaint, the investigating panel), Chief Municipal Inspector, Racing Integrity Commissioner, and Information Commissioner.
Misdirected Disclosure	A Public Interest disclosure which has been made to an entity (the receiving entity) that is not the entity to which the disclosure may or must be made.
Public Interest disclosure	A disclosure made in accordance with Part 2 of the Act. A public interest disclosure is one which is made by a natural person or group of people who has reasonable grounds for the belief that a public officer or public body has engaged in, or intends to engage in improper conduct in their official capacity, or detrimental action.

	<p>To be a public interest disclosure, a disclosure must satisfy the following criteria:</p> <ul style="list-style-type: none"> • Is it made by an individual, or group of people (joint disclosure)? • Has it been made verbally (in private) or in writing? • Is it about a public body or officer acting in their official capacity? • Does the information show or tend to show there is improper conduct or detrimental action? • Does the discloser believe on reasonable grounds that the information shows or tends to show there is improper conduct or detrimental action?
Public Interest complaint	A disclosure that has been determined by the IBAC, the Victorian Inspectorate or Integrity and Oversight Committee under section 26 of the Act to be a Public Interest complaint. A Public Interest Disclosure that has been determined to warrant investigation.
Public Interest Disclosure Coordinator (PIDC)	<p>A local point of contact for individuals seeking general information about public interest disclosures. A PIDC:</p> <ul style="list-style-type: none"> • encourages direct reporting of concerns to the IBAC but can receive and notify the IBAC of potential public interest disclosures regarding Council employees, contractors and volunteers. • assists the IBAC investigators • ensures the welfare of disclosers by appointing welfare officers as required • works to make employees aware of the public interest disclosure legislation.
Public body	A public body within the meaning of section 6 of the Independent Broad-based Anti-corruption Act 2011, the IBAC or any other body or entity prescribed for the purposes of this definition.
Public officer	A public officer within the meaning of section 6 of the <i>Independent Broad-based Anti-corruption Act 2011</i> , an IBAC officer or any other person prescribed for the purposes of this definition.
Reasonable Grounds	Means that a reasonable person in the same circumstances would consider there was a reasonable basis for the decision
Welfare officer	Means a person appointed by the Public Interest Disclosure Coordinator to manage the welfare of people who have made a disclosure, those who are the subject of a disclosure and potential witnesses.
Witnesses	A term that can refer to a discloser, the subject of a disclosure, or witnesses for an investigation relating to a Public Interest Complaint.

4. SCOPE

These procedures set out the system for reporting disclosures of improper conduct or detrimental action by councillors, council employees, contractors and volunteers. The procedures should be read in conjunction with Council's Public Interest Disclosure Policy.

Disclosures can be made by councillors, council employees or contractors and members of the public. These individuals are encouraged to raise matters of improper conduct, including suspected

fraud, corruption, substantial mismanagement of public resources, risk to public health and safety, risk to the environment, or detrimental action.

While Council can accept disclosures regarding employees, contractors and volunteers, Council encourages disclosures to be made to the IBAC or the Victorian Ombudsman in the first instance.

Council **cannot** accept any disclosures relating to Councillors. These disclosures **must** be made directly to the IBAC or the Victorian Ombudsman.

These procedures also cover what is required to make a disclosure, Council processes in relation to receiving disclosures, as well as how Council will look after the welfare of a discloser, witnesses and subjects of disclosures, including maintaining confidentiality and protection from reprisal.

5. RESPONSIBILITIES

APPOINTED OFFICERS AND THEIR RESPONSIBILITIES

CEO

Clare Keenan
Chief Executive Officer
PO Box 578,
Cobram 3643 Contact:
(03) 5871 9242

Council's CEO will:

- Be responsible for ensuring Council carries out its responsibilities under the Act and guidelines
- Liaise with the IBAC (or referred authority) in regard to cooperating with any investigations
- Be responsible for actioning any investigation outcomes, and providing relevant information to the PIDC for reporting requirements
- Be responsible for instigating and overseeing any actions in response to concerns about detrimental actions or reprisals for a person making a disclosure
- Receive a disclosure in accordance with this Procedure and the Act, and refer to the PIDC for assessment as soon as practicable
- Establish and maintain a confidential filing system
- Take all necessary steps to ensure the identity of the witness/es is kept confidential

Public Interest Disclosure Coordinator (PIDC)

Amanda Chadwick
Acting Director
Corporate, Governance
and Performance
PO Box 578,
Cobram 3643
Contact: 03 5871 9298
achadwick@moira.vic.gov.au

The PIDC is the local point of contact for individuals seeking general information about public interest disclosures. The PIDC will:

- Receive and assess a disclosure, in accordance with this Procedure and the Act, to determine whether it is an assessable disclosure
- Notify all assessable disclosures to the IBAC
- Notify a discloser
- Be a contact point for general advice about this Procedure and the Act
- Contact the welfare manager to notify of a witness/es requiring welfare support
- Hear and take notes of any concerns about detrimental action by the witness/es, and notify Council's CEO
- Establish and maintain a confidential filing system
- Collate and publish statistics in the Annual Report

- Take all necessary steps to ensure the identity of the witness/es is kept confidential

Welfare Officer

Kristina Skipper
Manager People and
Safety
PO Box 578,
Cobram 3643
Contact: (03) 5871 9413
kskipper@moira.vic.gov.au
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The Welfare Officer will manage the welfare of people who have made a disclosure, those who are the subject of a disclosure and potential witnesses including:

- Making initial, and then regular confidential contact with the witness/es to provide support, and determine/organise professional counselling through Council's Employee Assistance Program, if required
- Hearing and taking notes of any concerns about detrimental action by the witness/es, and notify the CEO
- Not discussing any aspects of the disclosure or investigation with the witness/es
- Establishing and maintaining a confidential filing system
- Taking all necessary steps to ensure the identity of the witness/es is kept confidential.

6. PROCEDURES

6.1 PROCESS FOR MAKING AND RECEIVING A DISCLOSURE

What is a disclosure?

A Public Interest Disclosure can be made about improper conduct of public bodies (e.g. Council) or public officers performing public duties (councillors, council employees, contractors, volunteers) or detrimental action taken by public bodies or public officers in reprisal against a person for the making of a disclosure.

To be a Public Interest Disclosure, a disclosure must satisfy the following criteria:

- Is it made by an individual, or group of people (joint disclosure)?
- Has it been made verbally (in private) or in writing?
- Is it about a public body or officer acting in their official capacity?
- Does the information show or tend to show there is improper conduct or detrimental action?
- Does the discloser believe on reasonable grounds that the information shows or tends to show there is improper conduct or detrimental action?

Who can a disclosure be made to?

As detailed in our Public Interest Disclosure Policy, disclosures should be made to one of the below entities. Council can accept disclosures but encourages disclosers to make these directly to IBAC or the Victorian Ombudsman in the first instance to minimise the risk of the identity of the discloser being revealed inadvertently. Disclosures about Councillors cannot be made to Council and **must** be made to one of the below entities.

Independent Broad-based Anti-corruption Commission (IBAC)

Phone: 1300 735 135
Mail: GPO Box 24234, Melbourne VIC 3001
Level 1, North Tower, 459 Collins Street,
Melbourne
Web: www.ibac.vic.gov.au

Victorian Ombudsman

Phone: 1800 806 314
Mail: Level 2 570 Bourke Street
Melbourne VIC 3000
Web: www.ombudsman.vic.gov.au

If a disclosure is made directly to Council, the PIDC will:

- remind employees that if they make a disclosure that it is to be kept confidential
- limit the number of people who can be made aware of the discloser's identity, or information that could identify the discloser
- ensure secure electronic or paper filing system for the receipt, storage, assessment and notification of public disclosures
- develop a risk management plan for every disclosure to manage the risk of confidentiality breaches.
- assist the investigating agency

Who can make a disclosure?

Public Interest Disclosures can only be made by individual(s) or groups of individuals and cannot be made by companies or businesses. You can report improper conduct anonymously. If you choose to do this, you cannot be contacted if more information is required or to provide updates and outcomes and the protection of the Act will not apply.

What information is required when making/receiving a disclosure?

The following information will be required from disclosers:

- What is the alleged improper conduct?
- Who was involved?
- When and where did it happen?
- Has anyone else been told?
- Why do you believe this conduct has occurred?
- Copies of any supporting documentation

How can a disclosure be made?

Individual(s) making a disclosure can do so in the following ways:

- verbally - in person, over the phone, by leaving a voice message or by any other form of electronic communication that does not require writing
- in writing – by delivering or mailing to the organisation, emailing to a person nominated to receive disclosures, or online through the IBAC or Victorian Ombudsman websites
- a disclosure cannot be made by fax.

Confidentiality

The Act requires the identity of the discloser and the content of the disclosure to be kept confidential.

To ensure confidentiality the disclosure should be made in a private environment, and organised in a way that protects the confidentiality of the meeting. For example, the name, purpose and attendees of a disclosure meeting should not be reflected in a diary invitation or meeting room booking if the disclosure is taking place in person.

A person can make a verbal disclosure in person, by phone, by leaving a voicemail message, or by any other form of electronic communication that does not require writing. If verbal, the person receiving the disclosure must make notes at the time. These notes, and/or any supporting evidence provided, must be kept secure (locked) and only provided to the PIDC or the IBAC.

If the discloser does not want to make a Public Interest Disclosure at this time, this decision must be confirmed in writing.

- Available protections and support if it is assessed as a public interest disclosure – including the protections from detrimental action or reprisal, the role of a welfare manager, advising the discloser to keep the matter confidential (to assist in protecting their identity and maximising the protections available), and that Council will protect the confidentiality of the matter and their identity, in accordance with the Act.
- The assessment and notification process. This includes Council's (via Public Interest Disclosure Coordinator) requirement to assess and notify the IBAC within 28 days if the matter is considered that it may be a Public Interest Disclosure. If the matter does not meet the requirements of a public interest disclosure, then Council will notify the discloser of other options available. Either way, Council will notify the discloser in writing (if contact details are available).
- Once the disclosure is notified to the IBAC and assessed as a Public Interest Disclosure complaint it cannot be withdrawn.

Misdirected disclosures and disclosures for other entities

If Council receives a misdirected disclosure, the PIDC will consider disclosure and notify those disclosures to the appropriate entity within 28 days.

If council receives a disclosure regarding the conduct of councillor(s), the discloser will be immediately advised to disclose their concerns to the IBAC or Victorian Ombudsman.

Disclosures requiring Urgent Action

If the person taking the disclosure believes the disclosure details behaviour or a threat requiring urgent action, they should report the relevant details (not the discloser's identity) to the PIDC or the CEO. Immediate action can be taken while considering whether or not it is a disclosure that must be notified to the IBAC or while waiting the IBAC's decision on a notified matter.

6.2 ASSESSMENT AND NOTIFICATION PROCESS

Assessment of Disclosures made to IBAC/Ombudsman

When the IBAC receives a disclosure, they will first determine whether the disclosure is a public interest complaint in accordance with the requirements of the Act.

The IBAC may seek additional information from the discloser (or the notifying entity e.g. Council if applicable) in order to determine whether a disclosure is a public interest complaint.

If a disclosure has been determined as a public interest complaint the IBAC will:

- Investigate it
- With the consent of the discloser, refer the complaint to another agency for investigation (e.g. Victorian Ombudsman, Victoria Police (if a police matter), Chief Municipal Inspector, Information Commissioner, Racing Integrity Commissioner, and Judicial Commission.)
- Take no further action.

IBAC's Notification process

Once the IBAC or the Ombudsman has determined whether a disclosure is a public interest complaint it will advise the discloser of the determination and the action intended to be taken. It will also advise the notifying entity (this will be Council if the disclosure was made directly to Council) of its determination.

What happens if a disclosure is not an assessable disclosure?

If the IBAC determines the disclosure is not an assessable disclosure the IBAC must advise the discloser in a reasonable time that the IBAC has determined their disclosure is not a public interest complaint and will not be investigated as a public interest complaint and their identity does not have to be kept confidential.

The IBAC may also consider treating the disclosure as a complaint under the Independent Broad-based Anti-corruption Commission Act which engages its powers to refer the matter to a more appropriate agency to investigate, including the agency the complaint is about (e.g. Council). The IBAC will consult with the discloser prior to doing so.

Assessment of disclosures made to directly to Council

As detailed in this procedure and in our Public Interest Disclosures Policy, Council encourages disclosers to make disclosures directly to the IBAC or the Ombudsman to minimise the risk of the identity of the discloser being revealed inadvertently. In the event that a disclosure is received by Council directly, the PIDC will assess the disclosure in accordance with the requirements of the Act.

If it is considered that the disclosure may be a public interest disclosure, the PIDC will within 28 days of receiving the disclosure:

- notify the IBAC that Council considers the disclosure may be a public interest disclosure and that Council is notifying the disclosure to the IBAC for assessment under s 21 of the Act. In addition, at the time of notifying the IBAC under s 21 of the Act or at any later time, the Council may also provide the IBAC with any information obtained regarding the disclosure in the course of its enquiries leading up to its notification of the disclosure to the IBAC.
- notify the discloser that the disclosure has been notified to the IBAC for assessment under the Act.

If the PIDC determines the disclosure is not an assessable disclosure, they will notify the discloser (in writing if contact details are available and/or it is not an anonymous disclosure) that:

- Council does not consider the disclosure to be a Public Interest Disclosure.
- The disclosure has not been notified to the IBAC for assessment.
- The protections under Part 6 of the Act apply, regardless of whether the disclosure is notified to the IBAC for assessment.
- The options available to pursue the matter, including making the disclosure directly to the IBAC, or making a complaint/report/allegation through Council's Complaint Handling Policy, grievance procedure or other appropriate avenue.

6.3 INVESTIGATIONS

It is the responsibility of the CEO and the PIDC to cooperate with, and undertake any actions resulting from the findings and outcomes of a Public Interest Complaint investigation by the IBAC, or referred investigations by the Victorian Ombudsman or Victorian Inspectorate.

Natural justice

Natural justice is to be afforded to the subject of a disclosure prior to any decision being made about the allegations. If the matter has been investigated by an investigative entity, then the investigative entity will be responsible for ensuring consultations with the subject include the provision of natural justice to him or her. The IBAC has noted that affording a subject of a disclosure natural justice in this context means that if a decision is to be made about their conduct this person has the right to:

- Be informed about the substance of allegations against them.

- Be given the opportunity to answer the allegation before a final decision is made.
- Be informed about the substance of any adverse comments that may be included in any report arising from an investigation.
- Have their defence set out fairly in any report.

6.4 WELFARE SUPPORT

Councils nominated Welfare Officer is responsible for looking after the general welfare of the witness/es – including the discloser/s, anyone participating in an investigation, and the person who is the subject of a disclosure.

Welfare support should be provided to the discloser on an ongoing basis and is a requirement of the Act.

The support provided by the Welfare Officer includes:

- Confirming the disclosure has been received, advising of the legislative and administrative protections that are available, advising what action is proposed/or has been taken.
- Providing the person with encouragement that they have done the right thing by the organisation, assuring them that all reasonable steps will be taken to protect/support them and managing expectations.
- Listen and respond to any concerns the discloser may have about harassment, intimidation or victimisation in reprisal for making a disclosure, make notes and advise the CEO.
- Organising professional counselling for internal disclosers through Council's Employee Assistance Program service provider, if identified as appropriate or requested by the witness (not disclosing the details of the matter to the service, beyond it is for a public interest disclosure witness).
- Assess the risks of detrimental action being taken in reprisal and manage the impact of any investigations by preventing the spread of gossip and rumours.
- Attempt to ensure the expectations of the witness are realistic, and that their efforts to maintain confidentiality around the matter will assist in ensuring them the protections of the Act.

The Welfare Officer must not divulge any details relating the disclosed matter to any person other than the PIDC, or the CEO. All meetings between the Welfare Officer and the witness must be conducted discreetly to protect the person's identity.

6.5 CONFIDENTIALITY

The Act requires information about the identity of a discloser and the content of a Public Interest Disclosure to be kept confidential.

Council will take all reasonable steps to protect the identity of witnesses and the content of disclosures. Maintaining confidentiality is crucial in ensuring reprisals are not made against a witness.

Disclosure of information in breach of the Act constitutes a criminal offence that is punishable by a maximum fine of 120 penalty units or 12 months imprisonment or both.

The limited circumstances in which it is not an offence to disclose the content or identity of a discloser is:

- When the discloser has given their consent.
- When the IBAC or the Victorian Inspectorate has determined that the Public Interest Disclosure is not a Public Interest Disclosure complaint.

- When it is necessary for the purpose of the exercise of functions under the Act.
- It is necessary for the purpose of obtaining legal advice.

However, the Act prohibits the inclusion of particulars in any report or recommendation that is likely to lead to the identification of the discloser. The Act also prohibits the identification of the person who is the subject of the disclosure in any particulars included in an annual report.

Council will ensure all files, whether paper or electronic, are kept in a secure location and can only be accessed by the PIDC, the CEO, or Welfare Officer (in relation to welfare matters only).

All printed material will be kept in files that are clearly marked as a '*Confidential Public interest disclosures act* matter – Do not open' – on the cover, and warn of the criminal penalties that apply to any unauthorised divulging information concerning a public interest disclosure. Printed files must be kept in locked cabinets, and sealed in an envelope marked '*Confidential Public interest disclosures act* matter – Do not open' when relocated to central filing for permanent storage. All electronic files must be produced and stored in c:/ in a folder with password protection. Backup files will be kept on encrypted USB.

Council will not email documents relevant to a public interest matter and will ensure all phone calls and meetings are conducted in private. All correspondence, phone calls and emails from internal or external disclosers will be directed to the PIDC.

Where a person is contemplating making a disclosure and is concerned about approaching the PIDC, or CEO, in the workplace, they or them can contact the person who is to receive the disclosure, and request a meeting in a discreet location away from the workplace.

Investigations will be conducted by the IBAC or referred authority. Witnesses interviewed as part of any investigation will be advised to maintain confidentiality.

The discloser is not bound by the confidentiality provisions in sections 52 to 54 of the Act.

6.6 PROTECTION FROM DETRIMENTAL ACTION AND REPRISAL

Council will not tolerate reprisal action against a person making a disclosure, or any witness. To protect individuals against reprisal:

- Confidentiality processes (as set in this Procedure) will be followed.
- Any concerns by a witness about reprisal/detrimental action will be encouraged to be communicated immediately to the Welfare Officer or PIDC. The Welfare Officer/PIDC will make notes and will then confidentially raise the issue with CEO to determine action required.
- The Welfare Officer/PIDC and CEO will meet with the witness in private to discuss the issue/determine action required.
- The CEO will conduct any action required - including the initiation of disciplinary action against staff involved in the taking of detrimental action.
- The *Employee Code of Conduct* will reference public interest disclosures and protection from reprisal, which will be used as the basis for staff education (along with this Procedure) and the management of any issues that may appear to be detrimental actions.

Disciplinary action against a witness

It should be noted that a witness is not protected from the reasonable consequences flowing from their involvement in any management disciplinary action relating to misconduct, under the

Employee Code of Conduct. If disciplinary or other action is undertaken for a witness, the CEO or other responsible officer will document and demonstrate:

- The fact that a person has made a public interest disclosure is not a substantial reason for their taking of the action against the employee
- There are good and sufficient grounds that would fully justify action against any other person in the same circumstances
- There are good and sufficient grounds that justify exercising any discretion to institute disciplinary or other action.

The document must include reasons why the disciplinary or other action is being taken, and the reason why the action is not in retribution for making the disclosure. The discloser will be clearly advised, in writing, of the proposed action to be taken and of any mitigating factors that have been taken into account.

Limitations for protections for a discloser

It should be noted that a public interest disclosure determination will not relieve the discloser from:

- criminal liability for making false or misleading disclosures under the Act; or
- liability for their own conduct that has been disclosed as part of the public interest disclosure.

6.7 REPORTING – COLLECTION AND PUBLISHING OF STATISTICS

The PIDC will be responsible for collating and publishing statistics for the Annual Report relating to disclosures and investigations, as required under the Act. Special care will be taken to ensure any information published does not inadvertently lead to the identification of the witness/es.

6.8 EDUCATION AND TRAINING

Council will undertake education and communication activities for this Procedure, related Policies and Codes of Conduct.

This Procedure and associated Policy will be available on the intranet, Council's website, and be covered in Council's induction sessions. Basic information will also be provided to employees and members of the community at Council's service centres.

The education and any material provided will cover:

- Being clear about what conduct is acceptable – covering this Procedure, the *Fraud Prevention and Control Policy* and the relevant *Code of Conduct*.
- Raising awareness of responsibilities to disclose and how to do this.
- Advising councillors, staff/community members of their right to disclose to Council or the IBAC, and that they can seek advice confidentially and anonymously from Council's CEO or the PIDC.
- Reassuring staff that detrimental action will not be tolerated and they will be protected, including that disciplinary action will be initiated against staff who are involved in the taking of detrimental action.
- That all witnesses – including the subject of a disclosure – will be treated fairly.
- The offences and penalties under the Act.

7. OFFENCES

There are a number of offences set out in Part 11, Division 1 of the Act. The key offences to be aware of are:

False disclosure or provide false further information

- A person must not provide information under the Act that the person knows is false or misleading in a material particular, intending that the information be acted on as a public interest disclosure.
- A person must not provide further information, relating to a public interest disclosure made by the person, that the person knows is false or misleading in a material particular.

Falsely claim disclosure is a public interest disclosure or is a public interest complaint

- A person must not claim that a matter is the subject of a public interest disclosure knowing that claim to be false.
- person must not claim that a matter is the subject of a disclosure that the IBAC or the Victorian Inspectorate has determined to be a public interest complaint knowing that claim to be false.

The penalties for confidentiality breaches include imprisonment and/or financial penalties.

8. RELATED DOCUMENTS

Public Interest Disclosure Policy
Employee Code of Conduct
Councillor Code of Conduct
Fraud Prevention and Control Policy
Complaint Handling Policy and Procedure
[IBAC Guidelines for handling public interest disclosures](#)
[IBAC Guidelines for public interest disclosure welfare management](#)

9. RELATED LEGISLATION

Public Interest Disclosures Act 2012
Local Government Act 2020
Charter of Human Rights & Responsibilities Act 2006
Public Interest Disclosure Regulations 2019
Independent Broad-based Anti-corruption Commission Act 2011
Public Administration Act 2004

10. REVIEW OF PROCEDURE

This Procedure will be reviewed by 26 April 2025, or as otherwise required by legislative amendments or the issuing of new IBAC guidelines or advice.